

REMARKS

Applicants submit these Remarks in reply to the non-final Office Action mailed June 5, 2009. Before this Amendment, claims 1-12 and 27-35 were pending in this application, of which claims 1, 11, and 12 were independent.

In the Office Action, the Examiner rejected claims 1-12 and 27-35 under 35 U.S.C. § 103(a) as being obvious over the following combinations:

- i. claims 1-3, 5, 9-12 and 27-35 over U.S. Patent No. 6,834,182 ("*Fu*") in view of European Patent No. EP 1233273 ("*Gigliotti*"), and U.S. Patent No. 6,954,620 ("*Rotta*");
- ii. claims 4 and 6 over *Fu*, *Gigliotti*, *Rotta* and further in view of U.S. Patent No. 5,756,967 ("*Quinn*"); and
- iii. claims 7 and 8 over *Fu*, in view of *Gigliotti* and *Rotta*, and further in view of U.S. Patent No. 6,961,368 ("*Dent*").

By this Reply, Applicants have amended independent claims 1, 11, and 12 in an effort to further prosecution. Applicants' specification provides support for these amendments at, for example, page 4, lines 24-30; page 5, line 4 through page 7, line 15; page 10, lines 3-15; and Figures 2 and 3. Applicants have canceled claim 10 without prejudice or disclaimer. Accordingly, claims 1-9, 11, 12, and 27-35 are currently pending, of which claims 1, 11, and 12 are independent.

Applicants respectfully traverse the pending rejections for at least the reasons discussed below.

Claim Rejections Under 35 U.S.C. § 103(a)

Applicants respectfully traverse the 35 U.S.C. § 103(a) rejections of claims 1-12 and 27-35 as presently amended, because the Office Action fails to establish a *prima facie* case of obviousness. In order to establish a *prima facie* case of obviousness, the record must “include[] findings of fact concerning the state of the art and the teachings of the references” The Manual of Patent Examining Procedure (“M.P.E.P.”) § 2141(II) (8th ed., rev. 7, July 2008) (relying on *KSR Int’l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 82 U.S.P.Q.2d 1385 (2007), and confirming the legal framework established by *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966)). Moreover, “[o]nce the findings of fact are articulated, [the rejection statement] must provide an explanation to support an obviousness rejection under 35 U.S.C. [§] 103.” *Id.* If it is found that the prior art references fail to disclose all of the subject matter recited in a claim, the rejection statement “must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

Applicants respectfully traverse the rejection of independent claims 1, 11, and 12 under § 103(a) at least because *Fu*, *Gigliotti*, *Rotta*, *Quinn*, and *Dent*, alone or in combination, fail to disclose or render obvious all of the subject matter recited in any of amended independent claims 1, 11, or 12.

A. Amended Independent Claims 1, 11, and 12

Amended independent claims 1, 11, and 12, from which claims 2, 3, 5, 9-12, and 27-35 depend, each recites a device for monitoring an electromagnetic field emitted by the antenna, comprising “a communication module for transmitting said at least one RF

power signal measurement to a remote processing facility, wherein the communication module is configured to control, in response to a power control command received from the remote processing facility, an intensity of the at least one RF power signal input to the antenna." None of *Fu*, *Gigliotti*, and *Rotta*, nor their combination, discloses or renders obvious at least this subject matter.

The pending Office Action acknowledges that *Fu* "does not specifically disclose that the communication module transmits said at least one RF power signal measurement to a remote processing facility, wherein the communication module is configured to control the at least one RF power signal input to the antenna, in response to receiving a command for controlling the at least one RF power signal input to the antenna; and a control module for controlling the at least one RF power signal input to the antenna." Office Action at 2-3. In an effort to remedy this deficiency of *Fu*, the Office Action contends that *Gigliotti* "discloses a communication module for transmitting a[n] RF power signal measurement to a remote processing facility (remote station WS)." *Id.* While Applicants respectfully disagree with the pending rejections over a combination of *Fu* and *Gigliotti*, Applicants have amended independent claims 1, 11, and 12 in an effort to advance prosecution.

Amended claims 1, 11, and 12 now recite, among other things, "a communication module for transmitting said at least one RF power signal measurement to a remote processing facility, wherein the communication module is configured to control, in response to a power control command received from the remote processing facility, an intensity of the at least one RF power signal input to the antenna." *Fu*, *Gigliotti*, and

Rotta, regardless of whether they are viewed individually or in combinations, fail to disclose or render obvious at least this claimed subject matter.

Gigliotti fails to remedy the admitted deficiencies of *Fu*. *Gigliotti* discloses "device for monitoring electromagnetic fields." *Gigliotti*, Abstract. To that end, *Gigliotti* describes a "control unit 70 [that] is capable of operating (e.g., in response to instructions received from the station WS) in such a way as to selectively vary . . . [1] the frequency range in which [electromagnetic field] monitoring is performed, and [2] the [electromagnetic field] threshold level applied in device 60." *Id.*, col. 4, lines 39-47. In *Gigliotti*, "the selected band and/or the threshold value used to perform monitoring can be varied selectively from a remote station." *Id.*, Abstract.

As shown above, *Gigliotti* discloses a system in which certain parameters used for electromagnetic field monitoring at the control unit 70 can be varied selectively from a remote station. *Gigliotti* is silent, however, regarding the control unit 70 controlling "an intensity of the at least one RF power signal input to the antenna," let alone controlling an intensity "in response to a power control command received from the remote processing facility" as recited in each of Applicants' amended independent claims. To the contrary, the monitoring parameters that are varied in *Gigliotti* are used for monitoring and not controlling an intensity of an electromagnetic field. The monitoring parameters in *Gigliotti* are not further used to "control . . . an intensity of the at least one RF signal" "in response to a power control command received from the remote processing facility," as claimed.

Rotta also fails to remedy these same deficiencies. *Rotta* discloses "an independent watchdog circuit for monitoring and/or correcting the power level of an RF

signal input to be transmitted by a transmit antenna of [a] transmitting system." *Rotta*, col. 2, lines 20-25. In more detail, *Rotta*'s "watchdog circuit" attenuates or interrupts the amplified signal, if the power level exceeds a predetermined maximum level. See *id.*, col. 2, lines 37-39. *Rotta* further explains that this watchdog circuit operates independently of other components and, as such, does not receive commands from the other components. See, e.g., col. 2, lines 45-50 ("Advantageously, since the watchdog circuit forms a functionally partitioned component, any malfunction of the controller, transmitter, or amplifier does not affect operation of the watchdog circuit itself.")

Thus, like *Fu* and *Gigliotti*, *Rotta* does not teach or render obvious "control[ling], in response to a power control command received from the remote processing facility, an intensity associated with the at least one RF power signal input to the antenna," as recited in Applicants' amended independent claims 1, 11, and 12.

Because *Fu*, *Gigliotti*, and *Rotta* fail to disclose all of the subject matter recited in amended independent claims, the Office Action "must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III). Applicants respectfully submit that the Office Action has not articulated any reason why the differences between the subject matter recited in claims 1, 11, and 12, as amended, and the prior art would have been obvious to a person having ordinary skill in the art at the time the invention was made.

For at least the reasons outlined above, the Office Action fails to establish a *prima facie* case of obviousness with respect to amended independent claims 1, 11, and 12. Furthermore, each of claims 2-9 and 27-35 depend either directly or indirectly from one of amended independent claims 1, 11, and 12 and should be allowable for at

least the same reasons. Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1-9, 11, 12, and 27-35.

B. Dependent Claims 4 and 6

In the Office Action, claims 4 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Fu* in view of *Gigliotti* and *Rotta* and further in view of *Quinn*. Claims 4 and 6 depend from amended independent claim 1, which is allowable for at least the reasons outlined above. *Quinn*, which was cited only for its purported disclosure of a device for averaging subsets of samples, does not remedy the deficiencies of *Fu*, *Gigliotti*, and *Rotta* outlined above. Therefore, the 35 U.S.C. § 103(a) rejection of dependent claims 4 and 6 cannot be maintained and should be withdrawn.

C. Dependent Claims 7 and 8

In the Office Action, claims 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Fu* in view of *Gigliotti* and *Rotta*, and further in view of *Dent*. Claims 7 and 8 depend from amended independent claim 1, which is allowable for at least the reasons outlined above. *Dent*, which was cited only for its purported disclosure of a plurality of measuring channels and a switch for selectively feeding the output signal of any of the measuring channels, does not remedy the deficiencies of *Fu*, *Gigliotti*, and *Rotta* outlined above. Consequently, the 35 U.S.C. § 103(a) rejection of dependent claims 7 and 8 cannot be maintained and should be withdrawn.

Conclusion

The preceding remarks are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not

addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding remarks in favor of patentability are advanced without prejudice to other bases of patentability.

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account no. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: September 4, 2009

By: 
Stephen E. Kabakoff
Reg. No. 51,276
(404) 653 6477